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Information Systems, Inc., Toshiba America
Consumer Products, L.L.C., and Toshiba
America Electronic Components, Inc.*

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
(SAN FRANCISCO DIVISION)

IN RE: CATHODE RAY TUBE (CRT)
ANTITRUST LITIGATION

Case No. 07-cv-05944 SC
MDL No. 1917

This Document Relates to:

*Sharp Electronics Corp., et al. v. Hitachi
Ltd., et al.,
Case No. C 13-1173 SC*

**DECLARATION OF DANA E.
FOSTER IN SUPPORT OF
PLAINTIFFS' ADMINISTRATIVE
MOTION TO SEAL DOCUMENTS
PURSUANT TO FRCP 5.2(e) AND
CIVIL LOCAL RULES 7-11 AND
79-5(d)**

1 I, Dana E. Foster, hereby declare as follows:

2 1. I am an attorney with the law firm of White & Case LLP, attorneys for
3 Defendants Toshiba Corporation, Toshiba America, Inc., Toshiba America Information
4 Systems, Inc., Toshiba America Consumer Products, L.L.C., and Toshiba America Electronic
5 Components, Inc. (collectively, the “Toshiba Defendants”). I make this declaration in
6 support of the Plaintiffs’ Administrative Motion to File Under Seal (Dkt. No. 1834) (the
7 “Motion to Seal”).

8 2. Except for those matters stated on information and belief, which I believe to
9 be true, I have personal knowledge of the facts set forth herein and, if called upon, could and
10 would competently testify thereto under oath.

11 3. On June 18, 2008, the Court issued a Stipulated Protective Order (Dkt. No.
12 306) (the “Stipulated Protective Order”).

13 4. The Toshiba Defendants and co-defendants have produced certain documents
14 and information in this action designated as “Confidential” or “Highly Confidential” pursuant
15 to the Stipulated Protective Order.

16 5. On August 7, 2013, Plaintiffs Sharp Electronics Corporation and Sharp
17 Electronics Manufacturing Company of America, Inc. (collectively, “Sharp”) filed the Motion
18 to Seal, in which they asked this Court so seal their Opposition to Thomson S.A.’s Motion to
19 Dismiss for Lack of Personal Jurisdiction (“Sharp’s Opposition”) and exhibits attached as
20 Exhibits B through R, LL through SS, and UU, or portions thereof, pursuant to FRCP 5.2(e)
21 and Civil Local Rules 7-11 and 79-5(d).

22 6. Pursuant to FRCP 5.2(e) and Civil Local Rules 7-11 and 79-5(d), this Court’s
23 General Order No. 62, Electronic Filing of Documents under Seal, effective May 10, 2010,
24 and the Stipulated Protective Order, the following documents or portions of documents
25 should be maintained under seal and redacted from the Declaration of Craig A. Benson in
26 Support of Plaintiffs’ Opposition to Thomson S.A.’s Motion to Dismiss for Lack of Personal
27 Jurisdiction (the “Benson Declaration”):
28

DECLARATION OF DANA E. FOSTER IN SUPPORT OF PLAINTIFFS’ ADMINISTRATIVE MOTION
TO SEAL DOCUMENTS PURSUANT TO FRCP 5.2(e) AND CIVIL LOCAL RULES 7-11 AND 79-5(d)

Case No. 07-cv-5944, MDL No. 1917; Case No. 13-cv-1173

- 1 a. Attached as Exhibit C to the Benson Declaration is an excerpt from
- 2 Samsung SDI Defendants' Supplemental Responses to Direct Purchaser
- 3 Plaintiffs' First Set of Interrogatories, Nos. 4 and 5, dated October 17,
- 4 2011, that Samsung SDI has designated as "Confidential" pursuant to the
- 5 Stipulated Protective Order.
- 6 b. Attached as Exhibit D to the Benson Declaration is an excerpt from
- 7 Toshiba America Electronic Components, Inc.'s ("TAEC") Supplemental
- 8 Objections and Responses to Interrogatory Nos. Four and Five of Direct
- 9 Purchaser Plaintiffs' First Set of Interrogatories, dated February 10, 2012,
- 10 that TAEC has designated as "Confidential" pursuant to the Stipulated
- 11 Protective Order.
- 12 c. Attached as Exhibit E to the Benson Declaration is an excerpt from
- 13 Toshiba Corporation's Supplemental Objections and Responses to
- 14 Interrogatory Nos. Four and Five of Direct Purchaser Plaintiffs' First Set
- 15 of Interrogatories, dated February 10, 2012, that Toshiba Corporation has
- 16 designated as "Confidential" pursuant to the Stipulated Protective Order.
- 17 d. Attached as Exhibit F to the Benson Declaration is an excerpt from the
- 18 Second Supplemental Responses and Objections of Panasonic Corporation
- 19 of North America, MT Picture Display Co., Ltd., and Panasonic
- 20 Corporation (f/k/a Matsushita Electric Industrial Co., Ltd.) (the "Panasonic
- 21 Entities") to Direct Purchaser Plaintiffs' First Set of Interrogatories, dated
- 22 November 3, 2011, including attachment, that the Panasonic Entities
- 23 designated as "Confidential" pursuant to the Stipulated Protective Order.
- 24 e. Attached as Exhibit H to the Benson Declaration is an excerpt from
- 25 Defendant Hitachi Displays, Ltd.'s ("Hitachi") Supplemental Response to
- 26 Direct Purchaser Plaintiffs' First Set of Interrogatories, Interrogatory Nos.
- 27 4 and 5, dated February 10, 2012, that Hitachi designated as "Highly
- 28 Confidential" pursuant to the Stipulated Protective Order.

- 1 f. Attached as Exhibit I to the Benson Declaration is an excerpt from
- 2 Defendant Hitachi Displays, Ltd.'s (n/k/a Japan Display Inc.) Second
- 3 Supplemental Response to Direct Purchaser Plaintiffs' First Set of
- 4 Interrogatories, Interrogatory No. 5, dated April 12, 2013, that Hitachi
- 5 designated as "Highly Confidential" pursuant to the Stipulated Protective
- 6 Order.
- 7 g. Attached as Exhibit J to the Benson Declaration is a document produced
- 8 by TAEC in this litigation, bates-labeled TAEC-CRT-00116979 through
- 9 TAEC-CRT-00116980, that TAEC has designated "Highly Confidential"
- 10 pursuant to the Stipulated Protective Order.
- 11 h. Attached as Exhibit L to the Benson Declaration are (1) a document
- 12 produced by Samsung SDI in this litigation, bates-labeled SDCRT-
- 13 0086490 through SDCRT-0086492, and (2) an English translation of that
- 14 document, bates-labeled SDCRT-0086490E through SDCRT-0086492E.
- 15 Samsung SDI designated the original document "Highly Confidential"
- 16 pursuant to the Stipulated Protective Order.
- 17 i. Attached as Exhibit N to the Benson Declaration are (1) a document
- 18 produced by Chunghwa Picture Tubes in this litigation, bates-labeled
- 19 CHU00031136, and (2) an English translation of that document, bates-
- 20 labeled CHU00031136.01E through CHU00031136.02E. Chunghwa
- 21 Picture Tubes designated the original document "Confidential" pursuant to
- 22 the Stipulated Protective Order.
- 23 j. Attached as Exhibit P to the Benson Declaration are (1) a document
- 24 produced by Samsung SDI in this litigation, bates-labeled SDCRT-
- 25 0002526 through SDCRT-0002528, and (2) an English translation of that
- 26 document, bates-labeled SDCRT-0002526E through SDCRT-0002528E.
- 27 Samsung SDI designated the original document "Highly Confidential"
- 28 pursuant to the Stipulated Protective Order.

- 1 k. Attached as Exhibit Q to the Benson Declaration are (1) a document
- 2 produced by Samsung SDI in this litigation, bates-labeled SDCRT-
- 3 0002585 through SDCRT-0002587, and (2) an English translation of that
- 4 document, bates-labeled SDCRT-0002585E through SDCRT-0002587E.
- 5 Samsung SDI designated the original document “Highly Confidential”
- 6 pursuant to the Stipulated Protective Order.
- 7 l. Attached as Exhibit LL to the Benson Declaration is a document produced
- 8 by TAEC in this litigation, bates-labeled TAEC-CRT-00095077 through
- 9 TAEC-00095091, which TAEC designated “Highly Confidential” pursuant
- 10 to the Stipulated Protective Order.
- 11 m. Attached as Exhibit MM to the Benson Declaration is a document
- 12 produced by TAEC in this litigation, bates-labeled TAEC-CRT-00090061
- 13 through TAEC-CRT-00090062, which TAEC designated “Confidential”
- 14 pursuant to the Stipulated Protective Order.
- 15 n. Attached as Exhibit NN to the Benson Declaration is a document produced
- 16 by TAEC in this litigation, bates-labeled TAEC-CRT-00095072 through
- 17 TAEC-CRT-00095076, which TAEC designated “Highly Confidential”
- 18 pursuant to the Stipulated Protective Order.
- 19 o. Attached as Exhibit OO to the Benson Declaration is a document produced
- 20 by TAEC in this litigation, bates-labeled TAEC-CRT-00086226, which
- 21 TAEC designated “Highly Confidential” pursuant to the Stipulated
- 22 Protective Order.
- 23 p. Attached as Exhibit PP to the Benson Declaration is a document produced
- 24 by TAEC in this litigation, bates-labeled TAEC-CRT-00094042 through
- 25 TAEC-CRT-00094043, which TAEC designated “Highly Confidential”
- 26 pursuant to the Stipulated Protective Order.
- 27 q. Attached as Exhibit QQ to the Benson Declaration is a document produced
- 28 by TAEC in this litigation, bates-labeled TAEC-CRT-00095092, which

1 TAEC designated “Confidential” pursuant to the Stipulated Protective
2 Order.

3 r. Attached as Exhibit RR to the Benson Declaration is a document produced
4 by TAEC in this litigation, bates-labeled TAEC-CRT-00089696 through
5 TAEC-CRT-00089703, which TAEC designated “Highly Confidential”
6 pursuant to the Stipulated Protective Order.

7 s. Portions of Sharp’s Opposition and the Benson Declaration that contain,
8 cite, or identify information or quotations from the above-mentioned
9 exhibits or bates-labeled documents.

10 7. Pursuant to FRCP 5.2(e) and Civil Local Rules 7-11 and 79-5(d), this Court’s
11 General Order No. 62, Electronic Filing of Documents under Seal, effective May 10, 2010,
12 and the Stipulated Protective Order, the portions of Sharp’s Opposition to Thomson S.A.’s
13 Motion to Dismiss for Lack of Personal Jurisdiction and the Declaration of Craig A. Benson
14 in Support of Plaintiffs’ Opposition to Thomson S.A.’s Motion to Dismiss for Lack of
15 Personal Jurisdiction that contain, cite, or identify information or quotations from any of the
16 above-mentioned exhibits or bates-labeled documents should be maintained under seal and
17 redacted from Sharp’s Opposition and the Benson Declaration.

18 8. Exhibits C, D, E, F, H, I, J, L, N, P, Q, LL, MM, NN, OO, PP, QQ, and RR to
19 the Benson Declaration each has been designated by one of the Toshiba Defendants or co-
20 defendants as either “Confidential” or “Highly Confidential” pursuant to the Stipulated
21 Protective Order because they contain confidential, nonpublic, and highly sensitive business
22 information. They contain confidential, non-public information about the Toshiba
23 Defendants’ sales practices, business and supply agreements, and competitive positions. The
24 documents describe relationships with companies — including customers and vendors — that
25 remain important to the Toshiba Defendants’ competitive positions. Upon information and
26 belief, publicly disclosing this sensitive information presents a risk of undermining the
27 Toshiba Defendants’ relationships, would cause harm with respect to the Toshiba
28 Defendants’ customers, and would put the Toshiba Defendants at a competitive disadvantage.

Dana E. Foster

7

CERTIFICATE OF SERVICE

On August 13, 2013, I caused a copy of the “DECLARATION OF DANA E. FOSTER IN SUPPORT OF PLAINTIFFS’ ADMINISTRATIVE MOTION TO SEAL DOCUMENTS PURSUANT TO FRCP 5.2(e) AND CIVIL LOCAL RULES 7-11 AND 79-5(d)” to be electronically filed via the Court’s Electronic Case Filing System, which constitutes service in this action pursuant to the Court’s order of September 29, 2008.

By: /s/ Dana E. Foster
Dana E. Foster (*pro hac vice*)

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
(SAN FRANCISCO DIVISION)

IN RE: CATHODE RAY TUBE (CRT)
ANTITRUST LITIGATION

Case No. 07-cv-05944 SC
MDL No. 1917

This Document Relates to:

Sharp Electronics Corp., et al. v. *Hitachi*
Ltd., et al.,
Case No. C 13-1173 SC

**[PROPOSED] ORDER GRANTING
SHARP'S ADIMINISTRATIVE
MOTION TO FILE UNDER SEAL**

1 Plaintiff Sharp Electronics Corp. and Sharp Electronics Manufacturing Company of
2 America, Inc. (“Sharp”) filed an Administrative Motion to File Under Seal pursuant to
3 Civil Local Rule 79-5(d) (Dkt. No. 1834) (“Motion to Seal”) related to its Opposition to
4 Thomson S.A.’s Motion to Dismiss for Lack of Personal Jurisdiction (“Opposition”), the
5 supporting Declaration of Craig A. Benson (“Benson Decl.”), and the exhibits attached
6 thereto, all of which were lodged conditionally under seal on August 7, 2013. On August
7 13, 2013, Defendants Toshiba Corporation, Toshiba America, Inc., Toshiba America
8 Information Systems, Inc., Toshiba America Consumer Products, L.L.C., and Toshiba
9 America Electronic Components, Inc. (collectively, the “Toshiba Defendants”) filed the
10 Declaration of Dana E. Foster in support of the Motion to Seal (the “Foster Declaration”),
11 requesting a narrowly tailored order to maintain certain documents and document
12 excerpts under seal.

13 The documents at issue are: Benson Decl. Exs. C (excerpt from Samsung SDI
14 Defendants’ Supplemental Responses to Direct Purchaser Plaintiffs’ First Set of
15 Interrogatories, Nos. 4 and 5, designated “Confidential”), D (excerpt from Toshiba
16 America Electronic Components, Inc.’s Supplemental Objections and Responses to
17 Interrogatory Nos. Four and Five of Direct Purchaser Plaintiffs’ First Set of
18 Interrogatories, designated “Confidential”), E (excerpt from Toshiba Corporation’s
19 Supplemental Objections and Responses to Interrogatory Nos. Four and Five of Direct
20 Purchaser Plaintiffs’ First Set of Interrogatories, designated “Confidential”), F (excerpt
21 from Second Supplemental Responses and Objections of Panasonic Corporation of North
22 America, MT Picture Display Co., Ltd., and Panasonic Corporation (f/k/a Matsushita
23 Electric Industrial Co., Ltd.) to Direct Purchaser Plaintiffs’ First Set of Interrogatories,
24 designated “Confidential”), H (excerpt from Defendant Hitachi Displays, Ltd.’s
25 Supplemental Response to Direct Purchaser Plaintiffs’ First Set of Interrogatories,
26 Interrogatory Nos. 4 and 5, designated “Highly Confidential”), I (excerpt from Defendant
27 Hitachi Displays, Ltd.’s Second Supplemental Response to Direct Purchaser Plaintiffs’
28 First Set of Interrogatories, Interrogatory No. 5, designated “Highly Confidential”), J

(TAEC-CRT-00116979-80, designated “Highly Confidential”), L (SDCRT-0086490-92 and SDCRT-0086490E-92E, designated “Highly Confidential”), N (CHU00031136 and CHU00031136.01E-02E, designated “Confidential”), P (SDCRT-0002526-28 and SDCRT-0002526E-28E, designated “Highly Confidential”), Q (SDCRT-0002585-87 and SDCRT-0002585E-87E, designated “Highly Confidential”), LL (TAEC-CRT-00095077-91, designated “Highly Confidential”), MM (TAEC-CRT-00090061-62, designated “Confidential”), NN (TAEC-CRT-0095072-76, designated “Highly Confidential”), OO (TAEC-CRT-00086226, designated “Highly Confidential”), PP (TAEC-CRT-00094042-43, designated “Highly Confidential”), QQ (TAEC-CRT-00095092, designated “Confidential”), RR (TAEC-CRT-00089696-703, designated “Highly Confidential”), and the portions of the Opposition that quote from or describe Exhibits C, D, E, F, H, I, J, L, N, P, Q, LL, MM, NN, OO, PP, QQ, or RR.

After due consideration of the papers submitted and for good cause, the Court finds that the above materials contain proprietary and sensitive business information, and a substantial probability exists that the Toshiba Defendants would be competitively harmed if the materials were publicly disclosed. The Court also finds that the Toshiba Defendants have narrowly tailored this sealing request to only those exhibits and references thereto necessary to protect their proprietary and sensitive business information. The Court thus finds compelling reasons to maintain under seal the materials described in the Foster Declaration.

IT IS THEREFORE ORDERED that the following documents and document excerpts shall be maintained under seal:

- a. Benson Decl. Exs. C, D, E, F, H, I, J, L, N, P, Q, LL, MM, NN, OO, PP, QQ, and RR; and
- b. the portions of the Opposition that quote from or describe Exhibits C, D, E, F, H, I, J, L, N, P, Q, LL, MM, NN, OO, PP, QQ, or RR.

IT IS FURTHER ORDERED that, to maintain the effect of the seal under Civil Local Rule 79-5(f), the parties, their counsel, and their declarants shall not publicly

1 disseminate or discuss any of the sealed documents or their contents absent further order
2 of the Court.

3
4 **IT IS SO ORDERED.**

5
6 Dated:_____

7 _____
8 HONORABLE SAMUEL CONTI
9 UNITED STATES DISTRICT JUDGE
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